

**MINUTES
of the
FIFTH MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**October 9-10, 2007
Room 307, State Capitol
Santa Fe**

The fifth meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Daniel P. Silva, chair, at 10:20 a.m. on Tuesday, October 9, 2007, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Daniel P. Silva, Chair
Sen. Mary Kay Papen, Vice Chair (10/9)
Rep. Janice E. Arnold-Jones
Rep. Elias Barela
Rep. Richard J. Berry
Sen. Joseph J. Carraro
Rep. Dona G. Irwin
Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert
Sen. Nancy Rodriguez (10/10)
Rep. Henry Kiki Saavedra
Sen. H. Diane Snyder
Rep. Don L. Tripp (10/9)

Advisory Members

Sen. Ben D. Altamirano
Rep. Jose A. Campos (10/9)
Rep. Ernest H. Chavez
Sen. Dianna J. Duran (10/9)
Rep. Candy Spence Ezzell
Rep. Daniel R. Foley (10/9)
Sen. Mary Jane M. Garcia (10/9)
Rep. Thomas A. Garcia
Rep. Roberto "Bobby" J. Gonzales
Rep. Ben Lujan
Sen. Richard C. Martinez
Sen. Leonard Lee Rawson (10/10)
Rep. Edward C. Sandoval
Rep. Sheryl Williams Stapleton (10/9)
Rep. James R.J. Strickler
Rep. Thomas C. Taylor (10/9)
Sen. Vernon D. Asbill

Absent

Sen. Clinton D. Harden, Jr.
Sen. Lidio G. Rainaldi
Sen. David Ulibarri
Rep. Richard D. Vigil

Sen. Pete Campos
Sen. Kent L. Cravens
Rep. Anna M. Crook
Sen. Stuart Ingle
Rep. W. Ken Martinez
Sen. Steven P. Neville
Sen. James G. Taylor
Rep. Luciano "Lucky" Varela

(Attendance dates are noted for members not present for the entire meeting.)

Guests

The guest list is in the original meeting file.

Staff

Cleo Griffith

Doris Faust

Tuesday, October 9

Funding Charter Schools through the NMFA

Paul Cassidy of RBC Capital began the presentation by noting that many different groups have been trying to figure out how to implement House Bill 843 from the 2007 session.

House Bill 843 provides the framework for school districts to acquire public school facilities through lease-purchase agreements and authorizes additional property taxes to be used to pay for these agreements. This bill implements the provisions of Constitutional Amendment 2 approved by voters in the November 2006 general election. Charter schools are in desperate need of funding, are oversubscribed and are in need of new mechanisms to fund facilities.

Mr. Cassidy introduced Anna Lamberson, who described what a charter school is and how charter schools operate. Ms. Lamberson stated that charter schools have limited access to capital funding, and do not receive a proportionate share of local property taxes. Most charter schools are currently in inadequate facilities, and are leasing their facilities because they lack the capital to purchase or construct facilities.

Current state law requires that all charter schools be in public facilities by 2010. Many charter schools are concerned that they may be unable to comply with this law in light of the limitations on their ability to finance projects.

A number of charter schools may be interested in obtaining tax-exempt financing through the NMFA, but questions remain as to whether the NMFA can issue debt to benefit charter school facilities. Lawrence Rael, who is on the board of a charter school, noted that there are a number of practical issues to deal with. There is a waiting list of 200 children at his school, and better facilities are needed. Mr. Rael stated that there is no mechanism in place to get the property tax money from parents of those children in charter schools to the charter schools.

Mark Valenzuela of the NMFA noted that the NMFA would like to work with charter schools. However, before the NMFA can consider issuing a loan to a charter school, the NMFA needs to be certain that the charter school is deemed a proper entity for public funding and that the charter school has an adequate revenue stream.

Arthur D. Melendres of Modrall, Sperling, Roehl, Harris & Sisk stated that under current law, a charter school would own the building, but if the school defaults, building ownership

would transfer to the local school district. Charter schools want tax-exempt financing, but need the legislature's authorization to go to the NMFA for funding.

On questioning regarding the success rate of charter schools, Mr. Cassidy reported that charter schools have a 98% graduation rate, which is markedly better than the average graduation rate in New Mexico public schools.

The committee expressed concerns about charter schools, including:

- * constitutional anti-donation clause issues;
- * charter school principal and staff salaries;
- * funding for charter schools as compared to traditional public school funding; and
- * whether charter schools can realistically be in public buildings by 2010.

State Bonding Analysis

Norton Francis, chief economist for the Legislative Finance Committee, discussed New Mexico's long-term outstanding debt, and provided a comparison of where New Mexico stands in relation to other states on this issue. Mr. Francis reported that overall, New Mexico is in the middle of the pack, with generally more state debt but less local debt than other states. Mr. Francis' handout is in the meeting file, and includes numerous charts that detail the comparisons and debt levels.

Mr. Francis raised a few issues regarding outstanding long-term debt, including:

- * capital outlay has been financed with general fund or short-term severance tax notes;
- * the balance between leasing and purchasing at a time when the cost to issue debt is low;
- * the use of debt for operations and maintenance, rather than just for building and infrastructure;
- * changes in tax law that have impacts on debt servicing ability, such as road fund and GRIP bonds that are dependent on the gasoline excise tax;
- * municipal use of gross receipts tax revenues for debt service; and
- * health-related bond issues dependent on cigarette tax revenue.

Olivia Padilla-Jackson, director of the State Board of Finance, prefaced her remarks by noting that her presentation covers state bonding programs, but does not cover education bonding. Ms. Padilla-Jackson reported that the outstanding debt of core bonding programs totals \$2.8 billion in outstanding state debt, \$2.7 billion in outstanding municipal debt and \$.5 billion in outstanding county debt. In fiscal year 2007, state bonding programs represented 68% of funding for state-supported capital projects.

Ms. Padilla-Jackson provided historical information, projected debt service profiles, balances and policy issues on New Mexico's general obligation bond program, severance tax bonding program and transportation bonding program. In reviewing the combined state debt burden, it was noted that New Mexico's aggregate state debt is relatively high compared to peer

states when reviewing net debt as a percent of personal income and net debt per capita.

New Mexico continues to make a substantial investment in basic capital infrastructure, particularly in the areas of transportation, educational facilities and water supply. The core state bonding programs project the issuance of \$4.99 billion of new money bonds over the next 10 years. Each of the bonding programs is funded by dedicated revenue streams. None of the programs utilize funds that would otherwise flow into the general fund, and each program provides strong legal protections.

Mr. Valenzuela discussed the Public Project Revolving Fund (PPRF), noting that because the PPRF is a revolving fund, fund capacity is a function of the payments coming in. The fund's first bond issuance was in 1995, and as of September 2007, the PPRF has made 638 loans totaling more than \$1.229 billion.

New Markets Tax Credit Update

William Sisneros of the NMFA briefly updated the committee on the new markets tax credit, announcing that New Mexico has just been awarded \$110 million in new markets tax credits by the federal government. The federal program awards tax credits of 39% are taken over a period of seven years. The NMFA is setting up the program to administer the credits, which is intended to get private capital into rural areas. The committee congratulated the NMFA on the successful application.

Expenditures of the Governmental Gross Receipts Tax Distribution for State Parks

David Simon, director of the State Parks Division of the Energy, Minerals and Natural Resources Department, began his presentation by thanking the legislature for the ongoing support it has given to state parks. New Mexico's 34 state parks have approximately four million visitors annually and are an important resource. Next year will mark the seventy-fifth anniversary of the New Mexico state parks.

The state parks currently receive about 14% of the governmental gross receipts tax (GGRT), which equals approximately \$3.6 million per year. The NMFA issues bonds for the state parks, which are backed by the GGRT. Debt service on those bonds is currently approximately \$2.3 million annually.

The GGRT has funded major capital improvements in all areas of the state. The state parks system has a huge infrastructure investment that must be protected and maintained. However, the State Parks Division is fully bonded, and cannot issue more bonds until 2012. Total unfunded capital project needs in the state parks exceed \$121 million. Just completing the top one or two project priorities will cost an estimated \$34 million.

The committee discussed a number of state parks projects and programs, including:

- * the Rio Grande trail system and the status of efforts to make it contiguous;
- * reconnecting kids with nature;
- * Gila National Forest area trails; and
- * park security.

Wednesday, October 10

The committee reconvened at 9:15 a.m.

Albuquerque Bernalillo County Water Utility Authority Update

Mark Sanchez, executive director of the Albuquerque Bernalillo County Water Utility Authority (ABCWUA), reported that the ABCWUA has 172,000 customers, delivers approximately 100 million gallons of water and has 93 wells in use. In 2007, users on average consumed less water than they did in 1997.

The ABCWUA currently has \$648 million in outstanding debt issued either through public offerings or through the NMFA. Approximately \$561 million has a senior pledge on net revenues and \$208 million of senior lien debt is in the form of loans through the NMFA. Eighty-seven million dollars has a subordinate pledge on net revenues and 76.8% of that debt is in the form of loans through the NMFA.

Mr. Sanchez reported that the ABCWUA does not forecast a water rate increase until 2012, and also noted that the ABCWUA is the single largest payor of the GGRT.

The committee discussed:

- * the ABCWUA's conservation measures;
- * revenue derived from fines and the effectiveness of fines to promote water conservation;
- * teaching water conservation to children beginning at an early age; and
- * water system leakage.

House Memorial 35 Technical Transportation Committee Report Findings

Secretary of Transportation Rhonda Faught, Representative Lundstrom, Senator Snyder and Chris Wornum with Cambridge Systems reported the findings of the House Memorial 35 Technical Transportation Committee.

House Memorial 35 called for a task force to identify and analyze the future outlook of transportation in New Mexico, to review the state's current transportation needs, to review alternative modes of transportation and to identify options in funding strategies for a sustainable transportation system. The committee met a number of times during the interim.

The task force determined that New Mexico's transportation system is currently in "fair"

shape, but state and local transportation needs over the next 20 years will far exceed available revenue. Among the funding concerns is a funding gap for GRIP I of \$495 million and a funding gap for GRIP II of \$80.5 million that need to be addressed.

The task force evaluated New Mexico's gasoline tax compared to that close up other states, as well as gas prices compared to other states. New Mexico's gasoline tax, at \$.17 per gallon, has not been changed since 1995. The task force concluded that:

- * historically, there is no real relationship between the amount of gasoline tax assessed by a state and the ultimate price of gasoline paid at the pump by consumers;
- * transportation needs far outweigh available funding;
- * current levels of funding will not sustain New Mexico's transportation needs into the future; and
- * options to increase transportation funding are needed.

Short-term funding options include dedicating all motor vehicle excise tax to transportation; dedicating gross receipts tax on Department of Transportation contractors to transportation; improving compliance of the weight distance tax and trip tax; allowing a local dedicated gross receipts tax; indexing the special fuels tax; indexing the gasoline tax; indexing vehicle registration and transaction fees; and indexing the weight distance tax and trip tax.

Model Wind Farm Facility Tax Credits and Financing

Joanna Prukop, secretary of energy, minerals and natural resources, provided an update on the status of the newly formed Renewable Energy Transmission Authority along with the names and contact information for the Renewable Energy Transmission Authority board members. The board is scheduled to meet today and will be discussing the structure of the authority, staffing needs and reviewing draft bylaws.

Secretary Prukop discussed the New Mexico renewable energy production tax credit and the economic impacts associated with wind power development. The tax credit was adopted in 2002 as an incentive to stimulate large scale renewable energy development in New Mexico. The production tax credit equates to a total of 700 megawatts of incentivized wind power development. Currently, there are approximately 500 megawatts of wind power on line in the state.

The economic impacts of 700 megawatts of wind power development include:

- * total capital costs of \$900 million;
- * 583 direct construction jobs created;
- * 62 direct permanent jobs created;
- * \$127 million in state revenue generated; and
- * \$41 million of royalty payments to land owners.

Adjournment

There being no further business, the committee adjourned at 12:20 p.m.

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